

**OFFICE OF
CHILDREN'S
OMBUDSMAN
OVERVIEW**

The Children's Ombudsman Act, 1994 PA 204 (MCL 722.923), effective January 1, 1995, established the Office of Children's Ombudsman (OCO). As an autonomous unit within the Department of Technology Management and Budget (DTMB) the OCO monitors and ensures compliance with relevant statutes, rules, and policies pertaining to children's protective services and the placement, supervision, treatment and improving delivery of care of children in foster care and adoptive homes.

The act requires the OCO to establish procedures for receiving and processing complaints, conducting investigations, holding hearings and reporting investigative findings and recommendations. The act also requires the Michigan Department of Health and Human Services (MDHHS) to provide information to and cooperate with the ombudsman in the carrying out of the responsibilities of the office.

The Child Care Organization Act, 1973, PA 116, MCL 722.115a says: "A child placing agency shall provide the Children's Ombudsman created in section 3 of the children's ombudsman act with those records requested by the ombudsman pertaining to a matter under investigation by the ombudsman." The Children's Ombudsman Act requires the MDHHS and child placing agencies to do all the following:

- Upon the ombudsman's request, grant the ombudsman or his or her designee access to all information, records, and documents in the possession of the department (MDHHS) or child placing agency that the ombudsman considers relevant and necessary in an investigation.
- Assist the ombudsman to obtain the necessary releases of those documents that are specifically restricted.
- Upon the ombudsman's request, provide the ombudsman with progress reports concerning the administrative processing of a complaint.
- Upon the ombudsman's request, provide the ombudsman information he or she requests under subdivision (a) within 10 business days after the request. If the department determines that release of the information would violate federal or state

law, notify the ombudsman of that determination within the same 10-day deadline.

Note: Due to statutory prohibitions, do not release certain confidential information from children's services case files to OCO; see SRM 131 for detailed information.

**OFFICE OF THE
FAMILY
ADVOCATE (OFA)
LIAISON DUTIES:**

The OFA is the department liaison to the OCO. The OFA:

- Determines if MDHHS possesses or, in consultation with children's services legal division, has legal access to case information regarding the child(ren) and family with respect to adoption, foster care, juvenile justice and/or children's protective services.
- Assists the OCO to obtain requested documents, access to department and private child placing agency staff, or case status.
- Maintains a record of OCO cases including notations of subsequent action taken.
- Notifies the local office director, Child Welfare Field Operations, Children's Services Administration child welfare managers, and the Business Service Center of the OCO investigation conclusion.
- Forwards to the appropriate central office division the issues identified in findings or recommendations that require policy, statutory, and/or legal clarification.
- Performs MiSACWIS data checks upon OCO request.
- Coordinates and prepares the MDHHS response to the OCO.
- Facilitates meetings between the OCO and MDHHS or child placing agency staff.

OCO Requests for Records or Documents

OCO requests for records or documents regarding Children's Protective Services (CPS), Foster Care (FC), Adoption Services (AS), or Juvenile Justice (JJ) must be made in writing to the OFA. Each written request must contain:

General Information (if known).

- Name and date of birth of the child(ren) and the parent(s).
- Legal status and placement (if JJ).
- MDHHS county/district office and/or private child placing agency involved.

Exception: Private child placing agencies - Make all OCO requests for records or documents directly to the private child placing agency with a copy to the OFA. The OCO will contact the private child placing agency directly if the requested information is not received by the due date.

OCO Investigations

The OCO sends a notice of investigation letter to the complainant after the request for case files form has been sent to the OFA. A copy of this letter (with name and address redacted) must also be sent to the OFA, MDHHS local office, and/or the private child placing agencies involved.

Exception: When the OCO opens a case for investigation that involves only a private child placing agency, the OCO must forward a copy of the notice of investigation letter and subsequent closing letter to the OFA and the local office that monitors the private child placing agency with a notation that it is for informational purposes only.

OCO Requests for Additional Records or Documents

The OCO must contact the OFA and follow the procedures outlined in the protocol for *requesting records or documents* when requesting additional or updated records or documents.

Exception: When the local office has designated a contact person to whom requests for additional information can be directed, the OCO does not need to contact the OFA.

MDHHS must process the OCO request for additional or updated records relating to an ongoing investigation according to the time frames and methods as described in the protocol for *response to a request for records or documents*.

Exception: MDHHS and the OCO investigator agree to a modified time-frame or method.

Note: Due to statutory prohibitions, some information may not be released from children's services case files to the OCO; see SRM 131 for detailed information.

Protocol for the OCO Closing Investigations

The OFA distributes closing letters to Child Welfare Operations and/or the Children's Services Administration child welfare manager and county director upon receipt from the OCO. The OCO must conclude each investigation via one of the following:

1. **Affirmation** - The OCO concludes that MDHHS and/or the private child placing agency complied with law and policy.
2. **Report of Findings and Recommendations** - The OCO finds one or more of the following:
 - A matter should be further considered by the MDHHS and/or the private child placing agency.
 - An administrative act should be modified, canceled or corrected.
 - Reasons should be given for an administrative act or omission.
 - Other actions should be taken by the MDHHS and/or the private child placing agency.
3. **Administrative Closing** - The OCO recommended and the MDHHS and/or private child placing agency, initiated actions that resolved the matter that was the subject of the OCO

investigation and no further action is required by the OCO, the MDHHS, and/or the private child placing agency.

**LOCAL OFFICE
PRIMARY
CONTACT/
ALTERNATE
DUTIES:
CONTACT WITH
THE OCO**

Each local office shall ensure that OCO written requests for information are directed to the designated OCO local office primary contact or alternate. In addition to keeping local office management informed of OCO requests, the primary contact is also responsible for facilitating the OCO's access to specific local office staff and case information.

The OCO local office primary contact is responsible for:

- Reviewing the OCO's request for information and facilitating the transfer of information to the OCO.
- Notifying the OFA promptly if the local office has had no involvement, the subject of a complaint resides in another county, or if information on file cannot be provided and the reason it cannot be provided.
- Forwarding information to CPS and the Division of Child Welfare Licensing (DCWL) when appropriate.
- Ensuring that the initial contact and all subsequent contacts with the OCO are noted in an administrative file separate from the children's services case file. When contact has been made and the identity of the OCO staff is uncertain, the local office contact person must verify the identity by return call to the OCO office.
- Notifying the OFA of the date that requested information is sent to the OCO.
- Facilitating contact between the OCO and local office staff (including in person, telephone, or e-mail contact) when requested by the OCO. A supervisor may participate in these interviews.

- Providing the OFA with updates to forward to the OCO when specifically requested (such as copies of updated service plans, court reports, or new CPS complaints).
- Notifying the OFA when the OCO requests the local office to participate in a meeting/hearing with the OCO.
- Notifying the OFA when there are concerns regarding the interaction between the local office and the OCO.

RESPONSE TO AN OCO REPORT OF FINDINGS AND RECOMMENDATIONS

MDHHS must provide a written response to an OCO report of findings and recommendations (F&R). The OFA prepares the final written response.

Note: When MDHHS fails to respond within 60 days, or requests an extension, the OCO may send a closing letter to the complainant that provides the OCO's findings and recommendations with no corresponding MDHHS response.

F & R Response Process

1. OFA receives the F&R from the OCO. The response is due to the OCO 60 days from receipt of the F&R.
2. OFA creates the F&R response template.
3. OFA sends the F&R and the response template electronically with high priority status to the appropriate local office and/or private child placing agency within 1 business day. At the same time, the OFA will send an electronic copy of the F&R and response template to Child Welfare Field Operations and/or the Children's Services Administration child welfare manager.
4. The local office and private child placing agency completes an objective review of the case file and department actions or omissions and drafts:
 - A clear response to each of the OCO's specific findings and recommendations, reflecting that the local office either agrees, agrees in part, or disagrees with the OCO. A

detailed rationale is required for each finding and recommendation with which the local office or private child placing agency agrees in part or disagrees.

- A clear corrective action plan (immediate and long-term) is required for each recommendation with which the local office agrees in part and/or fully agrees.
5. The local office and private child placing agency sends the draft response to the OFA, due 30 days from the date of receipt.
 6. The OFA reviews the local office response to ensure that the findings and recommendations are accurately and completely addressed. The OFA will contact the local office when clarification is needed and/or if the OFA disagrees with the information as presented.
 7. During the F&R response process, the OFA will notify and seek the assistance of Child Welfare Field Operations and/or Children's Services Administration, child welfare manager if:
 - The OFA and local office cannot resolve a significant disagreement with information presented.
 - The OFA has been unable to obtain accurate and complete responses to the findings and recommendations.
 8. The OFA prepares the department's final response to the OCO.
 - A clear response to each of the OCO's specific findings and recommendations, reflecting that the agency either agrees, agrees in part or disagrees with the OCO. A detailed rationale is required for each finding and recommendation with which the agency agrees in part or disagrees.
 - A clear corrective action plan (immediate and long-term) is required for each recommendation with which the agency agrees in part or fully agrees.

**RESPONSE TO AN
OCO REQUEST
FOR ACTION****Requests for Action**

When the OCO forwards a request for action (RFA) to the OFA it must contain sufficient information for MDHHS to take immediate action when the OCO alleges:

- Immediate risk to a child or children.
- Inappropriate placement of a child or children.
- Employee misconduct.

RFA's may be made regardless of the status of the MDHHS case or the OCO investigation. The process is as follows:

1. The OCO submits an RFA to the OFA.
2. The OFA creates the RFA response template.
3. The OFA must forward the RFA and the RFA response template within 1 business day to the MDHHS local office and/or private child placing agency director with a copy to the county director, Child Welfare Field Operations and/or Children's Services Administration, child welfare manager.
4. The local office and/or private child placing agency completes an objective review of the case file and department actions or omissions and drafts:
 - A clear response to each of the OCO's specific requests for action, reflecting that the local office either agrees, agrees in part, or disagrees with the OCO. A detailed rationale is required for each request for action with which the local office agrees in part or disagrees.
 - A clear corrective action plan (immediate and long-term) is required for each request for action with which the local office agrees in part and/or fully agrees. The MDHHS response should include approximate time frames for completion of any action MDHHS agrees to take.
5. The MDHHS local office and/or private child placing agency must forward the draft response to the OFA within 3 business days of receiving the RFA.

6. The OFA must review the local office response to the RFA and prepare the official department response.
7. The OFA must forward the department's response to the OCO within 5 business days of the receipt of the RFA.

**STAFF
RESPONSE TO
COMPLAINTS
FILED WITH THE
OCO**

Section 11 of the Children's Ombudsman Act protects any person who has filed a complaint with the OCO or cooperated with the OCO during the investigation. The act also prohibits interference with the lawful actions of the OCO. A foster parent filing a complaint with the OCO, or cooperating with an OCO investigation, is **not** to be used as a basis for a licensing complaint against the foster parent.

Allegations of Section 11 violations brought to the department's attention must be investigated by supervisory staff. Corrective action must be implemented if an allegation is confirmed by such an investigation.